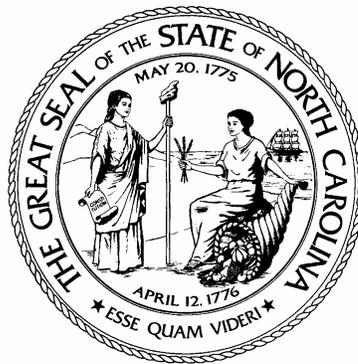


LEGISLATIVE RESEARCH COMMISSION

STATE GOVERNMENT CONSTRUCTION REVIEW AND APPROVAL



REPORT TO THE
2001 SESSION OF THE
2001 GENERAL ASSEMBLY
OF NORTH CAROLINA

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH, NC 27601



January 10, 2001

TO THE MEMBERS OF THE 2001 GENERAL ASSEMBLY (REGULAR SESSION 2001):

The Legislative Research Commission herewith submits to you for your consideration its 2001 final report on State government construction issues. The report was prepared by the Legislative Research Commission's Committee on State Government Construction Review and Approval pursuant to G.S. 120-30.17(1).

Respectfully submitted,

James B. Black
Speaker of the House

Marc Basnight
President Pro Tempore

Cochairs
Legislative Research Commission

1999 - 2000

LEGISLATIVE RESEARCH COMMISSION

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PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House of Representatives and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1998 Session and 1999 Sessions, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of state government construction review and approval was authorized by Section 2.1 of Part II of Chapter 395 of the 1999 Session Laws (Regular Session, 1999). The relevant portions of Chapter 395 are included in Appendix A.

The Legislative Research Commission authorized this study under authority of G.S. 120-30.17(1) and grouped this study in its Governmental Agency and Personnel Issues area under the direction of Senator Linda D. Garrou. The Committee was chaired by Representative Douglas Y. Yongue and Mr. James Boniface. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all

information presented to the committee will be filed in the Legislative Library following the 1999-2000 biennium.

COMMITTEE PROCEEDINGS

The State Government Construction Review and Approval Committee held one meeting before the 2000 Session of the 1999 General Assembly. The Committee decided not to report to the 2000 General Assembly, but to continue its study after the Short Session. The Committee held five meetings after the 2000 Session of the 1999 General Assembly.

First Meeting – February 29, 2000

At its first meeting, held on February 29, 2000, Mr. Boniface began by explaining that the Committee's charge is to examine the state construction process and to streamline that process to make it more efficient and cost-effective. Mr. Boniface informed the Committee that he had been a Co-Chair of this committee in 1998 and reviewed what the committee had accomplished thus far and where it had to go. It was felt that many issues could be resolved administratively within the State Construction Office or in some of the other state agencies rather than by legislation.

Mr. Boniface then gave a presentation, outlining for the Committee who the "customers" of State construction are, types of reviews done and the time involved, the issues involved in the 1998 study, and options for filing this Committee's report to the General Assembly. He reported that among the issues studied in 1998 were communication among the various State agencies, the amount of time involved in getting a project from initiation to completion, and the growth of the workload during the past decade, which was determined to be \$2.6 billion in value of the work involved, with the staffing increasing only marginally.

Mr. Speros Fleggas, Director of the State Construction Office, then made a presentation to the Committee in order to give the Committee members some background information about the State Construction Office and an overview of the work they do. Mr. Fleggas informed the Committee that the State Construction Office operates under two statutes, the Executive Budget Act and the Department of Administration Act. The Executive Budget Act requires the Governor to perform a study and review of plans and to determine whether the building repairs and renovations for which appropriation of state funds has been made are designed for the specific purpose of the appropriation. The Department of Administration Act confers the responsibility to approve plans, assist agencies in preparation of cost estimates, supervise the bidding of all contracts for design, construction, and renovation of state buildings, and supervise and inspect all work. The State Construction Office reviews budget requests and estimates submitted by agencies and forwards them to the Office of State Budget and Management for consideration in the appropriations process. Once money is appropriated for the project, an architect and an engineer

are selected to do the design in accordance with procedures established by the State Building Commission. Once an architect is selected, the State Construction Office negotiates a design fee, gets the contracts underway and sees that they are properly executed. There are sometimes as many as forty reviews done on a project by about seventeen different agencies, although not every project will require that many. The State Construction Office sets the bid date, and once the project has been bid and the construction contract awarded, the Office follows the project through construction, attending monthly conferences, approving all change orders, and facilitating resolution of problems and any possible disputes. The Office also conducts the facility condition assessment inspections on all State property on about a three-year cycle, looking at all buildings over 3,000 square feet, which is a little over 90 percent of all property the State owns. Deficiencies are noted, cost estimates are done, and a report is prepared and forwarded to the agencies and institutions. The reports are used to set priorities for repair and renovation funds that are available. Currently there are nearly 1,200 projects in design and construction, worth about \$2.6 billion.

Mr. Fleggas reported that the State Construction Office consists of 56 individuals, with three vacancies to be filled. Of these, 35 are professional level architects and engineers, most of whom are registered, have been through the Department of Insurance course, and are code certified. Mr. Fleggas informed the Committee that there are two teams, each consisting of an architect, a mechanical engineer, and an electrical engineer, who conduct inspections of approximately 12,000 buildings in North Carolina.

Mr. Fleggas informed the Committee that his department is experiencing some difficulty in obtaining and keeping experienced technical personnel. As a result more and more pressure is being exerted on his present staff, particularly in checking and rechecking designs for possible omissions and errors.

Mr. Fleggas indicated that another area of concern is exemptions in the statutes. In recent years the General Assembly has passed laws for some localities and awarding authorities that allow exemptions from bid procedures. This is causing confusion among design professionals and the contracting community, and confusion over process usually results in higher prices. Mr. Fleggas stated that uniform statutes, rules and regulations provide for consistent interpretations and standardization, resulting in better bids and fewer problems. A need exists to simplify the review process without compromising the quality and benefit of a good, solid review. He told the Committee that ability to attract and retain qualified personnel would be a benefit to all review agencies.

A brief discussion followed Mr. Fleggas' presentation regarding the State Construction Office's role in the process and which projects are subject to their review. However, the main focus turned to repairs and renovations on campuses. Representative Bridgeman inquired about deficiencies on campuses such as broken windows, paint peeling, etc., whether such are reviewed during a three-year inspection and if not corrected, why. Mr. Fleggas said that if money is not sufficient, whatever can be fixed, is. The inspection team will take maintenance people on the inspection tours and will develop a list of items which can be fixed in-house without appropriating money. Repair and renovation lists are provided to all institutions inspected and it is up to each institution to decide where their priorities fit within their agency. Representative Yongue expressed his desire to see "preventative maintenance" replace "repair and renovation" as a first line of defense.

Next the Committee heard from Mr. Bill Davis, Assistant Director of Design Review in the State Construction Office. Mr. Davis reviewed for the Committee the legislation that resulted from the 1998 Committee, which requires OC-25 certification by the Department of Administration, and the implementation of those requirements thus far. Mr. Davis reported that, at this time, data is insufficient to come to any real conclusions as to the impact of the certification process, but the State Construction Office believes it will help to make preliminary project budgets and schedules more accurate.

Finally the Committee heard a presentation from Mr. David Bullock, AIA and Mr. Michael Taylor, on INTERSCOPE, the State Construction Office's new software system, which was put into place this year. Mr. Bullock and Mr. Taylor demonstrated for the Committee how the system works to allow project status to be monitored internally, and externally, through the Internet.

Second Meeting – October 26, 2000

At its second meeting, held on October 26, 2000, the Committee again heard a presentation from Mr. Speros Fleggas, Director of the State Construction Office. He gave an overview of the State Construction Office and the work it performs to bring Committee members back up to speed after the Short Session. He pointed out that his is the only state agency that conducts a broad-based, comprehensive review of these state construction projects and their adherence to the statutory requirements.

Normally sixty days is allowed for the designer selection process, and depending on other factors such as scope, there could be a lot of time spent between designer selection and schematic design. However, if there are any problems the State Construction Office is called upon to help solve them. Mr. Boniface pointed out that project close-outs are taking up to a year, and if the upcoming bond issue passes, that could be a real problem as far as scheduling all anticipated new construction. .

Next, the Committee heard from Mr. Bill Davis, Design Review Assistant Director of the State Construction Office. Mr. Davis distributed to the Committee members an outline describing the design and review process. He mentioned that instead of printed advertising, bids for new construction are now available on their website, which helps speed up the process. (Nearly 900 projects were received this year.) He pointed out that university and community college projects have a different time frame in advance planning from agency projects in that the State Construction Office has little to do with the advance planning.

Mr. Davis told the Committee that all agencies have a stated goal of 30 days for the review process. However an agency's review may not be received until some time after the State Construction Office has completed its review, and any differences must be resolved before the process can continue.

Next, Mr. Fleggas made a brief presentation on staffing and salary issues at the State Construction Office. He told the Committee that staffing has been a continuous problem because they are unable to offer salaries at the same level as private industry, or even other state agencies. Staffing has not increased since 1982, and has been below that level in 2000 due to resignations and unfilled vacancies. Mr. Fleggas informed the Committee that the Office of State Personnel has approved pay grade revisions, but there are

no funds available to implement the increases, and unfortunately, staffing problems are a root cause of delay in the review process.

Third Meeting – November 16, 2000

The third meeting was held on November 16, 2000, after the referendum that approved the Higher Education Bonds had passed (Session Law 2000-3, Senate Bill 912). A copy of the bill was distributed to the Committee members for their review.

First, the Committee heard from Mr. Philip Albano, Director of Administrative and Facility Services for the North Carolina Community College System. Mr. Albano gave the Committee an overview of the community college system. Regarding capital improvement expenditures, he stated that there is a General Statute that says that state funds must be matched with non-state funds. However, the higher education bond bill contained the language, “ability to pay”, so some of the wealthier counties will have to match funds dollar-for-dollar, while other counties at the lower end of the spectrum don’t have to match state funds at all, and those in the middle will have to match on a sliding scale.

Mr. Albano noted that bond projects under \$250,000 do not have to go through the State Construction Office, while normally community college projects that exceed \$100,000 must go through the State Construction Office. Mr. Stewart asked, regarding projects under \$250,000, what process would be in place to select designers, select contractors, approve payment, change order requests, and who would be responsible for closing out these projects. Mr. Albano replied that, according to law, if the project is over \$45,000 for new construction or \$100,000 for repair and renovation, a designer with technical expertise would have to be hired. If the project is under \$100,000 a designer would not have to be hired and the college would not have to advertise for bids.

Representative Bridgeman inquired about the need to bid twice due to lack of bidders. Mr. Albano responded that there must be three bidders in order to open a bid for the first time. Otherwise, the bid must be advertised again. Mr. Boniface commented that a primary objective would be a comprehensive, single schedule for what the work is and when it would be coming out so that contractors and designers could get a handle on the work and schedule it. Mr. Albano replied that the colleges are going to be surveyed immediately to get some idea of needs, and he expects to have a list of needs and a timeline for projects within 30 to 45 days, as well as a cash flow chart.

Next the Committee heard from Mr. Kevin MacNaughton, P.E., of the University of North Carolina. Mr. MacNaughton informed the Committee that project planning for the UNC system has been completed, although full OC-25 submissions have not been completed for all projects. The schedule assumes 30-day reviews for schematics and design development documents, and 60 days for construction documents. A one-day delay in construction is estimated to result in a \$500,000 loss to the program.

Mr. MacNaughton also explained to the Committee that the legislature, about three years ago, had passed a provision that allowed the university system to deal with projects less than \$500,000 autonomously. This allowed those projects to move along faster and also allowed the State Construction Office to focus on the larger projects, speeding up the entire body of work. This delegation is coming up for consideration this year, having had a sunset clause in it, and it is hoped that the legislature will allow it to continue.

Mr. MacNaughton informed the Committee that the UNC system currently has fifteen projects that are fully designed and ready to go, valued roughly at \$400 million. These are the result of advance planning funding funded by the General Assembly. Based on these timelines it is expected that there will be 65 designer solicitations before the end of this calendar year. They project a 35% increase in the workload for the UNC system and the Department of Insurance staff, and a 300% increase for the State Construction Office. This is not the typical mix of small and large projects, but all large projects, averaging around \$4.5 million.

Mr. MacNaughton reported that the UNC system has also suffered staff loss due to non-competitive wage scales and needs funding to grant approved payscale increases. In response to staff losses at the Department of Insurance and massive project backlogs, UNC and DOI have utilized "Independent Design Assessment" consultants to work with design teams. This program appears to reduce review effort/times by DOI. The UNC system would like the flexibility of using alternative delivery systems on their projects. In response to what may be a highly competitive marketplace, they are also implementing a web application to advertise projects.

Next the Committee heard from Grover Sawyer and James Roberts with the North Carolina Department of Insurance. Mr. Sawyer informed the Committee that the DOI has reorganized in-house planning reviews. The Regular Planning Review Section will handle community colleges and all the secondary school bond programs, in addition to all other reviews. The State Property Planning Group will handle the UNC projects.

Mr. Sawyer told the Committee that in his planning review section the engineering staff has an average of over fifteen years of engineering design experience. At the present time he said his workload situation is marginal at best. For the last couple of years the Department of Insurance has been suffering up to at least a twelve-week backlog in reviewing plans. Their goal was to get this plan review down to under 4 weeks. In June of this year they were able to get the building code counsel to raise the threshold of the size of the buildings that are required to be reviewed and approved by the Department of Insurance. The Legislature approved an amendment to G.S. 58-31-40 which raised the threshold size of city and county owned buildings that will be required to be reviewed and approved by the Department of Insurance. The combination of these two items has enabled them to go to a three or four week timetable on reviewing plans. They have maintained that schedule for the last three months but if they have to return to the number of plans they were seeing prior to the change they made in June and July they could go back to a ten or twelve week backlog on reviewing plans. The schedule they are maintaining now is based on the section receiving forty and fifty new plans every month. They give 30 to 40 approvals of these plans every month and they review or re-review between 60 and 70 sets of plans a month.

The DOI staff is spending considerable time reviewing the proposed International Building Code. If implemented on schedule, the new code could cause disruption in the review of the proposed education projects. The impact on the planning review section by the higher education bonds depends on a number of things. It really depends on how many projects are actually generated and the schedule of those projects coming into their office.

Next, the Committee heard from Jack Cook, Director of the Risk Management Division of the Office of the State Fire Marshall, Department of Insurance. The Division's main responsibilities are to insure the state's buildings and to handle the other insurance needs of the state. Also, in accordance with

General Statutes, this department performs fire and life safety inspections on all state-owned buildings once each year and inspects all new electrical installations in the state's buildings.

Mr. Cook informed the Committee that his Division has a staff of 16, including himself, three insurance personnel, five building inspectors, three electrical inspectors, one chief electrical inspector, one chief electrical engineer, and two support personnel. He does not see a problem for his department as a result of this bond issue from an insurance standpoint. However from an inspection standpoint that is not the case. Last year these electrical inspectors made 2,800 inspections. Mr. Cook feels that at least one additional electrical inspector will be needed. The five building inspectors perform fire and life safety inspections, which are done after the building is completed. Last year 12,100 buildings were inspected, and about 1800 other types of structures. It is expected that the new construction resulting from the bond issue will exacerbate the problem, and at least one new building inspector will be needed.

Next the Committee heard from Mr. Speros Fleggas and Mr. Bill Davis from the State Construction Office. They related that their Office would like to see a consistency of documentation and procedures for all state projects, and concurrent reviews by all agencies and owners. They restated the need for thorough reviews to save money and avert potential problems. Their preliminary workload projections show the number of reviews climbing from approximately 900 in 2000 to 1400 in 2003 as a result of the higher education projects, and the State Construction Office has four strategies to address the increased workload:

- Keep a full complement of experienced staff.
- Staff versatility (capable of multi-tasking).
- Staff augmentation/outsourcing (Corps of Engineers).
- Possible addition of staff: part-time or permanent.

Fourth Meeting – November 30, 2000

At the fourth meeting, held on November 30, 2000, the Committee first heard from Mr. Terry Hatcher, P.E. from the Department of Health and Human Services, who made a powerpoint presentation outlining for the Committee his Departments concerns over the effects of the higher education bonds. After Mr. Hatcher's presentation, discussion ensued regarding the pros and cons of single prime and multi-prime bidding, as well as whether or not some projects should have less oversight than others and what criteria that should be based on.

Next, the Committee was addressed by Mr. William N. Stovall, P.E. of the Department of Corrections, who expressed his Departments concerns over the effects of the higher education bonds and relayed his experience with alternate project delivery systems. Mr. Stovall informed the Committee that, because of volume, about 80 percent of their design work is outsourced. Representative Yongue asked the maximum, dollar-wise, that has been undertaken by inmate construction projects. Mr. Stovall replied that buildings as large as 6000 square feet have been built and that the Department is presently working on a 3600 square foot dormitory at the female prison in Raleigh, about a \$5.5 million project, and

beginning about an \$18 million project in Warren County that will add 168 high security cells and about 35,000 square feet of medicinal support space, which will be the largest project undertaken.

Representative Gillespie then inquired about alternate plans for construction and what Mr. Stovall's recommendation would be to the committee to help speed up the process. Mr. Stovall replied that proposals are now under evaluation for alternate delivery strategies involving both financing and construction to the private sector. As for recommendations to help speed up the process, it would be helpful to have authority delegated from the State Construction Office to manage projects on a more micro level if an agency has qualified staff, and licensed professionals, with the State Construction Office maintaining a supervisory role. Supervision could be exercised by issuing operational guidelines or standards that an agency must meet, and possibly certifying that agency based upon whatever qualifications are in place or may be put in place.

Representative Gillespie then asked if legislation regarding projects less than \$500,000 or itemizing a list of certain projects to be exempt from review would help speed the process. Mr. Stovall replied that he didn't know if \$500,000 was a magic threshold, but it certainly is a level at which projects such as roof replacements, steam line repair or other projects in that category could be handled. Currently those projects take the same review cycle as multi-million projects. Mr. Stovall informed the Committee that his department maintains a standing committee with the Carolinas AGC, which meets on a semi-annual basis to discuss construction issues and also to discuss what is being done in the inmate construction program. He does not believe that with so much work available on the market now, the Department handling some projects in-house will impact the business opportunities available to North Carolina contractors.

Mr. Stewart noted that previous testimony from the State Construction Office and the Department of Insurance that their review process had improved significantly this year with additional staff. He asked if the process has improved with Mr. Stovall's agency. Mr. Stovall responded that there have been improvements, but also inconsistencies, largely due to appropriation monies. There have been indications that when the higher education work starts, the process could be extended to as long as 24 weeks, which becomes unacceptable from an owner-agency perspective. Representative Cox asked when the Department bids a project, if it goes through the same process such as estimating, getting prices, putting it together, bid time; are there any comparisons as to what it ought to be. Mr. Stovall informed him that these projects are like any other state project, OC-25 certified with the State Construction Office, estimates certified in advance, and the same process is followed in terms of seeking funding and verifying the cost of the project.

The next speaker was Grayson Kelley, Senior Deputy Attorney General in charge of the Special Litigation Division. From a statutory standpoint it is the responsibility of his agency to provide legal representation to all state agencies and institutions, including the university system and the community colleges. However, it does not provide representation to the local community colleges if they become involved in actual litigation, although advice can be provided to the Board. The agency's primary role is working with the State Construction Office, although it does interact with owner agencies, individual universities and the community college Boards.

At present there are only two lawyers in the Division, each spending about 50 percent of their time working on construction matters. These two lawyers represent the State Construction Office and the Department of Administration and are responsible for all construction and contract issues. University in-house counsels have some role, which varies from university to university, and to a lesser extent, the agency has lawyers in the education section that provide advice to the university system. However, looking at the size of the bond issue, it is believed that additional resources will be needed to provide the legal support that the construction program should have. This will be particularly important if alternative contracting methods are used. In the agency's view these positions are not only necessary but will save the state time and money in the long run.

Mr. Wes Styres, representing a group of mechanical and plumbing contractors known as the North Carolina Association of Plumbing and Heating Contractors, addressed the Committee next. Mr. Styres said that as contractor in North Carolina he is representing about 38,000 licensed technicians who are ready to take on the burden brought on by the passage of the bond issues. He suggested that we do not move too quickly or rush to judgment on any of the issues discussed by and before the committee.

Mr. Styres informed the Committee that, based on a study his group has done, the current bid law system over the last two years has saved the state over \$70 million, nearly a year's worth of work for the Department of Health and Human Services. He feels that the methods in place and the State Construction Office should be strengthened. Mr. Styres told the Committee that he would not want to lose the protections offered by the State Construction Office. His concern is that some will be too quick to throw out a system that works, rather than try to make it work better.

Mr. Chuck Wilson, president of the AGC of the Carolinas, addressed the Committee next. Mr. Wilson said that while the labor market is tight, bid lists are getting longer, and the split between high and low bids is getting tighter which indicates that things are slowing down. He does not see an impossible capacity problem since the bond issue spreads the work out over six years. Mr. Wilson expressed his opinion that the State Construction Office does an excellent job, and that they are essential to the process in order to get the work done. Mr. Wilson's also noted that there are alternative delivery systems available in private industry that are available through the state system.

Next the Committee heard from Mr. Al Bass, P.E. of the Professional Engineers of North Carolina. Mr. Bass expressed his concerns to the Committee and his feeling that there is a shortage of qualified engineers in North Carolina at this time. Mr. Boniface noted that Mr. Bass is serving on the Building Code Commission and asked what impact the proposed building code changes might have in the impending construction. Mr. Bass responded that he did not believe there would be a significant impact. He explained that the new building code, to take effect January 1, 2002, is not substantially different from the present one as far as the mechanical and plumbing codes are concerned.

Mr. Steven Schuster, representing the approximately 1800 members of AIA North Carolina, addressed the Committee next. Mr. Schuster told the Committee that the architects of North Carolina see this as an unprecedented opportunity for the citizens of North Carolina, and feel that the current delivery system for building public buildings does work, but that there is opportunity for improvement. The

system is pretty much as it has been for decades, and the opportunity to use this unprecedented amount of work to reexamine the way buildings are delivered is something that the architects are committed to. Seven points were mentioned as opportunities for change:

- Adoption of one building code for the country that addresses public safety is in the best interest of North Carolina and the country in general, rather than multiple codes, each one different. The architects strongly would like the Department of Insurance to consider this.
- The importance of the review process, and at times the duplication of those reviews. Consolidation of reviews when possible, particularly for the smaller projects.
- The multi-prime system is a burden that needs to be reconsidered. Many quality contractors in North Carolina will no longer work on state projects because they feel they cannot be effective in the multi-prime process. There are many architects who feel this way also.
- Consider alternative delivery approaches. A few years ago AIA North Carolina and the AGC had a joint task force to develop recommendations for use of design/build in public work. This is a document that may serve as a starting point.
- Additional funding for staffing for both the regulatory agencies and the universities; for hiring other competent staff and increasing funding for current staff.
- What this amount of work will do to the industry. In just the Triangle area there will be \$1.6 billion of new construction for just education facilities in Wake, Durham, and Orange counties. This is on top of a local economy that is nearing or at full capacity. Inflation will have a significant impact on these budgets.
- This may be an excellent time to rethink both the design contracts and the construction contracts used in producing buildings for North Carolina, and develop contracts that are effective, up to date, that allow designers to be accountable, to hold contractors accountable, and put teeth in them.

Mr. Boniface then addressed the Committee with a comprehensive powerpoint presentation giving an overview of two reports from other states that have been through the same process as this committee. They are: Resource Guide to State Facilities Management, published by the National Association of State Facilities Administrators, and Construction Management Process, published by the Budgetary Responsibility Oversight Committee Research Office, General Assembly of the State of Georgia. At the conclusion of his presentation, Mr. Boniface reviewed a memorandum that he had distributed to the committee members prior to the meeting. He asked that the members review the list of issues set out in the memorandum and prioritize, add, delete, or revise for discussion at the next meeting.

Fifth Meeting – December 7, 2000

At the fifth meeting, held on December 7, 2000, the Committee first heard from Mr. Eric Chapman, of Construction Control Corporation, Columbia, South Carolina. Mr. Chapman briefly told the Committee about his company, which specializes in construction management and can provide an alternative delivery system, consisting of preconstruction planning, cost control, estimating. Mr.

Chapman told the Committee that his company can show that multi-prime averages 7 percent less than single-prime, even when you add on the costs of management. Mr. Chapman asked that the Committee keep this in mind during the coming construction activity.

Next, Mr. Boniface lead the Committee discussion on the seven key issues addressed in his memorandum to the Committee. These specific issues identified by the Committee to date are:

- Agency staffing issues.
- Centralized project planning, scheduling, and management.
- Designer and contractor performance.
- Alternative project delivery systems.
- Adoption of a new building code.
- Building operation and maintenance.
- Industry interest and capacity.
- Scope of agency review.

The Committee discussed each of these issues at length until the members reached a consensus on the recommendations to be put into the Committee's final report. Mr. Boniface asked that staff prepare the final report and distribute it to the Committee members prior to the next meeting.

Sixth Meeting – January 4, 2001

The Committee held its final meeting on January 4, 2001. The Committee reviewed and approved its final report to the Legislative Research Commission.

FINDINGS AND RECOMMENDATIONS

The Legislative Research Commission's State Government Construction Review and Approval Committee met six times. The Committee's primary focus was to study the State construction process, and to streamline the process, making it more efficient and cost effective. However, the Committee has found that the time available to study the State Construction Review and Approval process was insufficient to be able to develop the number of possible legislative initiatives that would be needed to streamline such a long-standing and complex system. While the Committee recognizes the need for changes in the process, its members were not prepared to hastily propose legislation to include in its final report to the LRC. While well intended, such legislation might further complicate the review and approval of current construction projects associated with the Higher Education Facilities Financing Act, capital improvement plans of other state agencies, and elementary and secondary school expansion throughout the state. Based upon the information that the committee was able to collect and analyze in the time available, we respectfully submit the following findings and recommendations:

FINDING 1: The Committee found, as did the 1998 State Construction Study Committee, that any effective effort to streamline the State Construction process would require a continuing, collaborative effort between the General Assembly, state review agencies, representatives from the design and construction industries, and other state “client” groups, especially in light of the magnitude of the proposed community college and university construction work and high costs associated with potential delays in the review and approval process. The Committee also found that, although Senate Bill 912 establishes a Higher Education Bond Oversight Committee and charges it with reporting and specific monitoring and analytic duties, the composition and focus of the Oversight Committee would not specifically allow it to address the wide range of issues involved in streamlining the State Construction process. Similarly, the State Building Commission’s focus on approving state construction contracts and reviewing State Construction Office policies and procedures does not allow it to comprehensively consider the broader issues such as the inter-agency scheduling of community college and university project reviews.

RECOMMENDATION 1: That a task force, called the State Construction Task Force, be established immediately to complete the committee's charge of streamlining the State Government Construction Review and Approval Process. That the task force include appropriate members of previous State Construction study committees as well as representatives from the University System, the Community College System, the Department of Insurance, the State Construction Office, the State Building Commission, the Consulting Engineers Council and Professional Engineers of North Carolina, the American Institute of Architects of North Carolina, the Association of General Contractors, and representatives of the electrical and mechanical contractors, but that the task force be limited to fifteen members in order to ensure efficiency. That the task force complete their work within the timeframe established in the Higher Education Facilities Financing Act and complement, not duplicate, efforts of existing committees.

FINDING 2: The Committee found that, since 1995, alternatives to the State’s current design-bid-build, multi-prime project delivery system have been evaluated and approved by the State Building

Commission on a case-by-case basis. These include single prime, design-build, and construction management project delivery systems. The Committee found that Specific legislation has recently been passed to allow some school districts within North Carolina to utilize negotiated and design-build contracts or to exercise local choice after soliciting “equivalent” single-prime and multi-prime construction bids. The Department of Correction is currently evaluating alternative delivery strategies involving single-source project design, financing, and construction. The Committee also found that the sheer volume of state construction projects to be completed in the next five to eight years offers North Carolina a unique opportunity to study the use of alternative project delivery systems.

RECOMMENDATION 2: That, in order to evaluate the effectiveness of using alternative delivery systems for State Government construction projects, the State of North Carolina continue to study specific methodologies for utilizing alternative project delivery systems on construction projects undertaken during the next five years. These methodologies may include system selection criteria, appropriate design and construction contracts, performance evaluations, and development of review and approval processes that recognize the unique characteristics of the various project delivery systems. That, through a collaborative effort of the State Building Commission, the Higher Education Oversight Committee, and the proposed State Construction Task Force, strategies and methodologies may be studied to evaluate alternative delivery systems and recommend guidelines and policies for their use on future State Construction projects.

FINDING 3: The Committee found that, as noted in Senate Bill 912, current facilities of the University of North Carolina have fallen into a state of disrepair due to decades of neglect and inadequate attention to maintenance. Similar admissions are being made throughout the state as local school districts also plan and fund extensive renovation and construction programs. The Committee also found that the current processes used to plan, fund, design, and construct State facilities do not adequately integrate operations and maintenance (O&M) considerations. This is in contrast to policies adopted by numerous states that bring O&M personnel on board in the programming and design phases of state construction projects. The Committee found that, once again, the magnitude of projects included the Higher Education Facilities Act provide the State of North Carolina with a unique opportunity and impetus to create comprehensive guidelines that will extend the useful life and value of new State facilities by ensuring their continued maintenance after construction.

RECOMMENDATION 3: That immediate steps be taken to integrate operations and maintenance considerations within the State Construction Review and Approval Process.

FINDING 4: The Committee found that increased workloads, combined with staff attrition and vacancies within state review agencies, had resulted in extended review periods and some project delays. In response to inconsistent review periods and their inability to accurately schedule large capital programs, a number of state agencies have sought or are seeking to reduce State Construction Office (SCO) involvement by establishing a construction value limit below which no SCO review is required. University of North Carolina projects less than \$500,000 are exempt from SCO oversight, as are Community College System projects less than \$250,000. The Departments of Health and Human Services and Correction seek similar exemptions for projects based upon either a dollar amount or the type of construction project. In response to increasing review backlogs within the Department of Insurance (DOI), that agency recently requested both the Building Code

Commission and General Assembly to raise thresholds on the size of buildings subject to DOI review. Because the current system of review and approval of State facilities involves multiple reviews by state agencies and “client” groups, there is also evidence that suggests that duplicative efforts, non-concurrent review schedules, and conflicting review comments contribute to significant project delays.

RECOMMENDATION 4: That a comprehensive analysis of current agency review responsibilities be completed by the proposed State Construction Task Force in order to minimize the time required for project review and approval while ensuring public health, safety, and welfare and the quality of State facilities.

FINDING 5: The Committee found that, based on workload and staffing projections provided by the various agencies involved in the State Construction Review and Approval Process, it is clear that each agency will need to retain a full complement of experienced staff to meet anticipated schedules for projects included in the Higher Education Facilities Financing Act. In a number of cases, it is also clear that additional staff will need to be recruited, or existing staff augmented with contract personnel. The Committee found that, over the past two years, the State Construction Office, Department of Insurance, and University of North Carolina have all experienced significant staff attrition and difficulty in recruitment. In the case of the SCO and DOI, these staff shortages have resulted in significant delays in completing project reviews. Each of the agencies attributes their staffing problems to disparities between state and private sector salaries. The Committee found that, while the Office of State Personnel has approved increases to paygrade salaries associated with building system engineers and facility architects, funding to implement these increases has not been available.

RECOMMENDATION 5: That, in order to avoid the possibility of extended review periods and the associated losses attributable to project and construction delays, sources of funding be investigated that would allow state regulatory agencies to implement approved paygrade increases for professional staff. As funds become available, appropriations for increased staff salaries would be based upon specific staffing plans developed by each agency in response to workloads that are being projected as a result of the Higher Education Facilities Act and capital improvement plans developed by other state agencies.

APPENDIX A

CHAPTER 395
1999 Session Laws (1999 Session)

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE VARIOUS STUDY COMMISSIONS, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, AND TO AMEND OTHER LAWS.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1999".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Section 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 1999 Regular Session of the 1999 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The following groupings are for reference only:

(1) Governmental Agency and Personnel Issues:

...g. State government construction projects' review and approval process...

PART XXII.-----BILL AND RESOLUTIONS REFERENCES

Section 22.1. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

PART XXIII.-----EFFECTIVE DATE AND APPLICABILITY

Section 23.1. Except as otherwise specifically provided, this act becomes effective July 1, 1999. If a study is authorized both in this act and the Current Operations Appropriations Act of 1999, the study shall be implemented in accordance with the Current Operations Appropriations Act of 1999 as ratified.

In the General Assembly read three times and ratified this the 21st day of July, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:03 p.m. this 5th day of August, 1999

APPENDIX B

**MEMBERSHIP
STATE GOVERNMENT CONSTRUCTION
REVIEW AND APPROVAL COMMITTEE (LRC)
1999-2001
S.L. 1999-395**

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